



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 16 2015

REPLY TO THE ATTENTION OF:

SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Victor J. Dubel
c/o J. Patrick Schomaker, Esq.
Smith, Rolfes, and Skavdahl Co., LPA
600 Vine Street, Suite 2600
Cincinnati, Ohio 45202

Re: Jacamar Fire Response Site
25 Jacamar Court, Springboro, Ohio 45066
Site Spill Identification Number: C55Z
General Notice of Potential Liability and Request for Information

Dear Mr. Dubel:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Jacamar Fire Response Site ("Site"), located at 25 Jacamar Court, Springboro, Ohio 45066, and is planning to spend public funds to control and investigate these releases. This action will be taken by the EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 unless the EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the Site, and persons who generated the hazardous substances or were involved in the transport, treatment, or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where the EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement costs.

The EPA is currently planning to conduct the following actions at the Site.

- 1) Developing and implementing a site Health and Safety Plan;
- 2) Conducting air monitoring;
- 3) Providing Site security;

- 4) Segregation of chemicals to stabilize the explosion hazard;
- 5) Characterizing, removing, and properly disposing of waste containers and debris in accordance with EPA's Off-Site Rule (40 C.F.R. § 300.440);
- 6) Post-removal soil sampling;
- 7) Grading and hydro-seeding the Site.

The EPA has received information that you owned or operated the Site or generated or transported hazardous substances that were disposed of at the Site. By this letter, the EPA notifies you of potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse the EPA for costs incurred to date or to voluntarily perform or finance the response activities that the EPA has determined or will determine are required at the Site. The EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse the EPA for its costs. If a consent order cannot be promptly concluded, the EPA has authority to issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of the EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order.

Because of the conditions described above, the EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, the EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify the EPA in writing within **fourteen (14) business days** of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse the EPA for its costs. If the EPA does not receive a timely response, the EPA will assume that you do not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

In addition, the EPA is seeking to obtain certain other information from you pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing

CERCLA and to assist in determining the need for response to a release of hazardous substance(s) under CERCLA. The Administrator of the EPA has the authority to require any person who has or may have information relevant to any of the following to furnish the EPA with such information: (a) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (b) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (c) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, you are hereby requested to submit the following information concerning the Site:

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Did you ever use, purchase, store, treat, dispose, transport or otherwise handle any hazardous substances or materials at the Site? If the answer to the preceding question is anything but an unqualified "no", identify:
 - (a) In general terms, the nature and quantity of the hazardous substances;
 - (b) The chemical composition, characteristics, physical state (e.g., solid, liquid) of each hazardous substance;
 - (c) Who supplied you with such hazardous substances;
 - (d) How such hazardous substances were used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you;
 - (e) When such hazardous substances were used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you; and
 - (f) Where such hazardous substances were used, purchased, generated, stored, treated, transported, disposed, or otherwise handled by you.
5. Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.

6. Was there ever a spill, leak, release or discharge of hazardous substances into any subsurface disposal system or floor drain inside or under the building? If the answer to the preceding question is anything but an unqualified "no", identify:

- (a) Where the disposal system or floor drains were located;
- (b) When the disposal system or floor drains were installed;
- (c) Whether the disposal system of floor drains were connected to pipes;
- (d) Where such pipes were located and emptied;
- (e) When such pipes were installed;
- (f) How and when such pipes were replaced, or repaired; and
- (g) Whether such pipes ever leaked or in any way released hazardous substances into the environment.

7. Did you ever accept waste, or substances which could be considered off-spec, from any company or person? "Off-spec" means a substance that in its current form is not useful for its intended purpose. Off-spec materials are often experimental products and/or substances which did not live up to expectations; or product and/or substances which did not meet the level of quality required for its intended purposes, e.g., a contaminated batch of solvents. Your response is to include the following:

- (a) A description of the waste or off-spec substances sent to the Site;
- (b) The types and quantities of the waste or off-spec substances sent to the Site;
- (c) The name of the person or company who transported the waste or off-spec substances to the Site;
- (d) The name of the person or company who sent the waste or off-spec substances to the Site;
- (e) The name of the person or company who originated the waste or off-spec substances sent to the Site;
- (f) The dates such wastes or off-spec substances were sent to the Site;
- (g) The state (i.e., liquid, solid, or gaseous) of the wastes or off-spec substances sent to the Site, and the manner in which they were stored or disposed (i.e., drummed or uncontained, placed in lagoons, landfilled, placed in piles, etc.); and

(h) A description of what you would do with the waste or off-spec substances once received.

8. If you are the current owner of the Site, identify when, how, and from whom your ownership interest was obtained. In addition, submit copies of all instruments evidencing the acquisition or conveyance of such interest.

9. If there are other persons with ownership or other interests in the Site, identify the nature of their interests, and their names, addresses, and contact information.

10. At the time you acquired the Site, did you know or have reason to know that any hazardous substances were disposed of or otherwise placed on or at the Site? Describe all facts on which you base the answer to the previous question. If hazardous substances were present at the Site at the time of your acquisition of the Site, identify the name, address, and contact information of the prior owner from whom you obtained ownership.

11. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal or other handling of hazardous substances by you, your contractors or by prior owners and/or operators.

12. Provide copies of all casualty, liability, and/or pollution insurance policies, and any other insurance contracts referencing the Site (including but not limited to, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies, Institutional Controls and Post Remediation Care Insurance). Include any and all policies providing you with liability insurance, or with insurance for bodily injury, property damage, and/or environmental contamination, relating to the Site property, covering the time you first became the owner of the Site through the present time.

13. If there are any policies from the previous question of which you are aware but neither possess copies nor are able to obtain copies, identify each such policy to the best of your ability by identifying:

(a) The name and address of each insurer and the of the insured;

(b) The type of policy and policy numbers;

(c) The per occurrence policy limits of each policy; and

(d) The effective dates for each policy.

14. Identify all communications and provide all documents that evidence, refer, or relate to claims made by you or on your behalf under any insurance policy. Include any responses from the insurer with respect to any claims.

15. As you have stated that you do not have the ability to pay for cleanup at the Site, please provide the following:

- (a) Copies of your tax returns from the last three tax years.
- (b) The financial questionnaire titled "Individual Ability to Pay Claim: Financial Data Request Form", a copy of which is enclosed. Fill out, sign, and date the form.
- (c) IRS Form 4506-T, titled "Request for Transcript of Tax Return", a copy of which is enclosed. Fill out Lines 1-4, provide the tax form number (for example, 1040) in Line 6, and list the tax years for the returns you are providing to EPA in Line 9. After you sign, date, and list your phone number, please send the form to EPA for further processing. We will use the transcripts received from the IRS to confirm the information in the copies of the tax returns that you provide to us.

You may make a business confidentiality claim covering all or part of the information requested above pursuant to Section 104(e)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e)(7), and Section 3007(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b). Please make your Confidential Business Information (CBI) claim in writing when you submit the information.

To assist you in answering this request, the information sought pertains to any and all information in your possession, custody or control relating to the operation of the Site and to the transportation, storage, and/or disposal of hazardous substances or the generation of hazardous substances which were ultimately disposed of or offered for disposal at the Site.

The information sought herein must be sent to U.S. EPA within **twenty-one (21) business days** of your receipt of this letter. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against you by U.S. EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by the U.S. EPA. Information claimed as confidential will be handled in accordance with the provisions of 40 C.F.R. Part 2.

The written statements submitted pursuant to this request must be notarized and submitted under an authorized signature certifying that all information contained therein is true and accurate to the best of the signatory's knowledge and belief. Moreover, any documents submitted to U.S. EPA pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge and belief. Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, the

signatory should so notify U.S. EPA. If any answer certified as true should be found to be untrue, the signatory can and may be prosecuted pursuant to 18 U.S.C. § 1001. The U.S. EPA has the authority to use the information requested herein in any administrative, civil or criminal action.


Your responses to both the notice of potential liability (due within **14 business days** of receipt) and the information requests (due within **21 business days** of receipt), should be sent to:

Valerie Mullins
U.S. EPA - Region 5
Emergency Enforcement & Support Section (SE-5J)
77 West Jackson Boulevard
Chicago, Illinois 60604

If you need further information regarding this letter, you may contact Valerie Mullins, Emergency Enforcement & Support Section, at (312) 353-0324. Direct any legal questions to Kevin Chow, of the Office of Regional Counsel, at (312) 353-6181.

Due to the nature of the problem at this Site and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,


for Jason El-Zein, Chief
Emergency Response Branch #1

Enclosures:
SBREFA information sheet
Financial Data Request Form: Individual Ability to Pay
Request for Transcript of Tax Form (IRS Form 4506-T)